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To: Pat Murdo  
From: Gail Hillebrand  
Re: Response and suggestion re: ChoicePoint proposal of June 9, 2006 seeking an exemption  
Date: June 29, 2006

The ChoicePoint memo of June 9, 2006 to the Montana legislative interim committee staff proposes an exemption to the operation of the security freeze, and states that the exemption "was utilized in the recent Florida law." However, the Florida law language is slightly different from the language offered by ChoicePoint in its memo, in two important respects.

ChoicePoint proposes the following:

"(n) a consumer reporting agency's database or file which consists of information concerning, and used for, one or more of the following: criminal record information, tenant screening, employment screening, fraud prevention or detection, and personal loss history information."

The last phrase there, "personal loss history information" raises a larger policy issue about coverage of the freeze statute for insurer uses of the consumer reporting file or information derived from that file, such as a credit score or insurance score. That issue should be discussed separately. (It is exempted from the Florida law, under a different subsection of that law.)

The Florida law, HB 37, section 501.005(12)(j), limits the exemption to databases which are composed "entirely" of screening information and are used "solely" for one or more of the stated screening purposes. Here is a link to the text of the Florida law: <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName= h0037er.doc&DocumentType=Bill&BillNumber=0037&Session=2006>. Including the words "entirely" and "solely" would have the important effect of ensuring that the exemption applies only to databases used for certain kinds of non-credit, non-new accounts screening, and that there is no exemption for all uses of a database which is used for both credit and similar accounts and also for tenant, employment, or similar screening. An exemption for a multi-purpose database, rather than just for particular types of uses of such a database, would be a very significant loophole in the protection offered by a security freeze.

If the words "entirely" and "solely" which appear in the Florida statute were added as shown here, then ChoicePoint's language would match the Florida language, and be no broader than the Florida exemption. The material in brackets below raises the larger policy issue about insurer inclusion or exclusion from the freeze.

"(n) a consumer reporting agency's database or file which consists entirely of information concerning, and used solely for, one or more of the following: criminal record information, tenant screening, employment screening, and fraud prevention or detection.[, and personal loss history information.]"

If the Committee considers ChoicePoint's proposed exemption, Consumers Union respectfully suggests that it should do so only with the inclusion of these two limiting words used in Florida. The limiting words should prevent the exemption from being misused to exempt a database that is used for both tenant or employee screening and for opening new accounts for credit or services that will reflect on the consumer's credit record.

Thank you in advance for considering our views on this matter.